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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/560,246 04/26/00 CORLETT

N 9911-01

EXAMINER

QM12/0919

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STEPHENS, J

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

09/19/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/560,246

Applicant(s)

CORLETT, NADIA M.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 13-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention: an absorbent article reconfigurable from a normal condition to a compressed condition with respect to various types of compression and types of articles:

- species 1: negative pressure compression,
- species 2: physical compression,
- species 3: a diaper,
- and species 4: a sanitary napkin.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Eric Satermo on 9/10/01 a provisional election was made without traverse to prosecute the invention of Species 1 and Species 4, claims 1-5, 9, 11-16, and 19-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6, 7, 8, 10, 17, and 18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 3, 9, 16, and 20 are rejected under 35 U.S.C. 102(b) as being anticipate by Minton et al. USPN 5462166.

Regarding claims 1 and 16, Minton discloses a highly compact (col. 6, lines 27-28) and portable absorbent article comprising a packaging 160. The article is reconfigurable from a normal condition to a compressed condition (see reference to col. 6 above). The article has three dimensions, of at least one being reduced when the article is compressed (col. 5, lines 2-17 and Figures 2-3). Minton further discloses a method for packaging and retaining the absorbent article (col. 5, lines 28-59).

Regarding claims 2 and 3, Figures 2-3 show the length dimension of the article is reduced as claimed.

Regarding claims 9 and 20, Minton discloses the absorbent article may be a diaper (col. 3, lines 61-64).

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 11, 12, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (USPN 4936460).

Regarding claim 1, Meyer discloses a highly compact and portable absorbent article comprising a packaging 18 and an absorbent article (polyurethane foam may be used as filler, which is capable of absorbing liquids). The absorbent article is

reconfigurable from a normal to a compressed condition in which the absorbent article is reduced by at least one dimension (Abstract).

Regarding claims 2 and 3, Meyer discloses the article occupies a volume of space which is reduced by at least about 30% the article is reconfigured from a normal to a compressed condition (Abstract, col. 1, lines 29-33).

Regarding claim 4, Meyer discloses the packaging is configured to retain at negative pressure the compressed absorbent article (col. 1, lines 28-33).

Regarding claim 5, Meyer discloses the absorbent article is reconfigured from a normal condition to a compressed condition by negative pressure (col. 2, lines 33-37).

Regarding claims 11, 12, 16, and 19, Meyer discloses a method for packaging absorbent articles comprising providing a portable set of compact absorbent articles **10**, comprising a plurality of compartments (Figure 1). The individually packaged absorbent articles comprise a packaging **14** and an absorbent article 12 reconfigurable from a normal condition to a compressed condition (Abstract, col. 1, lines 29-33). The absorbent article is has three dimension and is reduced by at least one dimension when compressed (Abstract). The packaging is configured to retain at negative pressure the compressed absorbent article (col. 1, lines 28-33).

***Allowable Subject Matter***

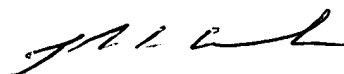
6. Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703)308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703)308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

Jacqueline F Stephens  
Examiner  
Art Unit 3761



September 14, 2001